REPORT AND RECOMMENDATIONS

OF THE

COMMISSION ON EXISTING INDUSTRIES

TO GOVERNOR BOB RILEY

<u>Submitted January 23, 2004</u>

G. Mack Dove - Chairman

Office of the Governor

BOB RILEY
Governor

STATE OF ALABAMA

Press Office

September 22, 2003

EXECUTIVE ORDER NUMBER 11

WHEREAS, the foundation of our state's economy is its existing businesses and industry and the hard working people of the State of Alabama who are employed by those businesses and industry; and

WHEREAS, the globalization of many industries has increased competition, requiring new and different technologies, methods, procedures, equipment, and infrastructure; and

WHEREAS, increased competition among states and nations for new and expanding industries and businesses has increased the investment cost to states, including Alabama, for those companies, sometimes creating at least a perception of a competitive advantage for new industries over existing ones; and

WHEREAS, other states and nations are competing to lure away Alabama's best and brightest employees, managers, and the companies for whom they work, offering incentive packages to move plants and businesses out of the State of Alabama; and

WHEREAS, Alabama's economic development community is comprised of many highly skilled, thoughtful, and hard working economic development professionals assisting communities and companies to reach each of their highest potential for the collective good of our state and all of its local communities; and

WHEREAS, Alabama offers the business world the availability of a work force, a work ethic, and natural resources second to none in the United States; and

WHEREAS, many of Alabama's industries have supported their own increased investment in the State, its educational system, and its future.

NOW THEREFORE, based upon those considerations, and for other good and valid reasons which relate thereto, I, Bob Riley, Governor of the State of Alabama, by virtue of the authority vested in me by the Constitution and laws of the State of Alabama, do hereby create the Alabama Commission on Existing Industries.

BE IT FURTHER ORDERED that the Commission, which will be appointed by and serve at the pleasure of the Governor, shall be a panel comprised of respected Alabamians--including economic development professionals; chamber of commerce and civic leaders; business and industry leaders; legal experts; former or current public officials, and others who represent Alabama's best and brightest.

BE IT FURTHER ORDERED, that the Commission shall hold public hearings, deliberations, and draft suggested revisions to Alabama's Constitution or the Code of Alabama in the following areas:

1. The best methods by which to assist existing industry, particularly at-risk industry or industry with jobs at risk, in the State of Alabama.

2. The best ways to address current and proposed laws to ensure fairness in the treatment of existing industry with the recruitment of new industry.

3. The best ways to modernize and improve existing facilities in Alabama to improve our state's global competitiveness in those industries served by our corporate citizens.

4. The best ways to provide incentives to industries to locate and expand in Alabama and to retain and increase jobs in Alabama that are not otherwise eligible for statutory incentives under current Alabama law.

5. The best ways to provide a work force with current and future skills necessary to help make the companies with which they work both competitive and profitable.

BE IT FURTHER ORDERED, that the Commission shall report its findings to the Governor within 120 days after the initial meeting of the commission.

BE IT FURTHER ORDERED, that, should any suggested revisions require legislative action, the Governor may submit them to the Legislature for consideration as soon as reasonably possible, including during a special session, if appropriate.

BE IT FURTHER ORDERED that this Executive Order shall become effective immediately upon its execution and shall remain in effect until amended or modified by the Governor.

DONE AND ORDERED this 22nd day of September, 2003.

Governor's Commission on Existing Industries
G. Mack Dove, Chairman

January 23, 2004

The Honorable Bob Riley
Governor
State of Alabama
State Capitol
Montgomery, Alabama

Dear Governor Riley:

On behalf of the 23 members of the Commission on Existing Industries, created pursuant to your Executive Order 11, and the Commission's technical advisers, we are pleased to deliver to you herewith our report and recommendations.

The Commission began work on November 10, 2003 and, despite the holiday season and the geographic diversity of its members, completed its research and recommendations on January 20, followed by the process of compiling three separate committee reports and recommendations, and one joint recommendation, into one seamless report. Several thousand man-hours have been expended in this effort, which could not have been timely completed without the assistance of the Commission's technical advisers, including staff members from several key state agencies. Representatives from the Alabama Development Office, the Department of Revenue, the Department of Economic and Community Affairs, and the Department of Industrial Relations were most helpful. The Commission also received valuable input from experts across the country and, most importantly, from its members.

This report contains the recommendations of three working groups, known as the Committees on Workforce Development, Facilities & Technology, and Tax Incentives, as well as one joint recommendation. Each committee also reviewed, and with some changes, approved the reports of the other two committees. Thus, the recommendations contained herein are interrelated and come with the approval of your entire Commission.

Commissioners may disagree as to the relative importance of one recommendation over another, but all agreed that the formation of a long-term existing industries study commission was much needed. Issues surrounding the retention and growth of existing industries in Alabama require both short-term and long-term solutions, coupled with accountability. The long-term commission can serve as the vehicle to accomplish these important goals.

The Commission offers this report to you for your consideration, and if appropriate, the consideration of other elected officials, taking into account both the fiscal crisis now facing the state and the pressing need to find ways to encourage Alabama businesses to remain in this state, and to grow. The Commissioners stand ready to advise your staff and the various state agencies in this critical endeavor.

Respectfully submitted,

G. Mack Dove

Chairman

Preamble to Report and Recommendations of the Governor's Commission on Existing Industries

Introduction and Background

On September 22, 2003, Governor Bob Riley signed Executive Order 11, creating the Governor's Commission on Existing Industries (the "Commission"), a blue-ribbon panel charged with the responsibility of studying and recommending to the Governor the best methods by which to assist existing industry, particularly at-risk industry or industry with jobs at risk; reviewing current and proposed laws to ensure fairness in the treatment of existing industry with the recruitment of new industry; and determining the best ways to improve the global competitiveness of the state's industries including workforce development and the optimal use of incentives of various forms. Statistics show that more than 75% of all new jobs in Alabama come from existing industries and that fact was consistently understood as the primary basis for the Commission's work.

The Governor appointed Mr. Mack Dove, CEO of AAA/Cooper Transportation, headquartered in Dothan, to chair the Commission, followed by the appointment of 23 individuals from various businesses and industries, as well as from the economic development profession, local chambers of commerce, and other groups. The Governor also appointed a diverse group of technical advisers, eventually totaling 15, from both the private sector and from several state agencies. The names and affiliations of the Commission members and the technical advisers are listed elsewhere in this report.

The Commission met for the first time on November 10, 2003 in the Capitol Building and received the Governor's charge. Due to the broad scope of the Commission's work and its limited time constraints, Chairman Dove determined that the Commission members should be divided into three working groups: the Workforce Development Committee; the Facilities & Technology Committee; and the Tax Incentives Committee. The purpose of each Committee is stated in the preamble to its report and recommendations, which follow.

Summary of Meetings and Methodology

During the Commission's first meeting, the appointments of the Commissioners to the different Committees, and the assignment of various technical advisers to each, were announced by the Chairman, and a first committee meeting then held. The Co-Chairs of each Committee were also appointed. They were Messrs. Matt Parker and Fred Blackwell—Workforce Development; Ms. Donna Watts and Mr. David Muhlendorf—Facilities & Technology; and Messrs. Mike Jenkins and Johnnie Aycock—Tax Incentives.

Each Committee then established its own meeting schedule and began to organize presentations by various private and public sector experts as well as to develop a research agenda. An overview of the various state and local tax incentives and grants available to existing and new industries was also presented, followed by comments from the Director of the Alabama Department of Economic and Community Affairs (ADECA), Mr. John Harrison, and the Director of Business Information and Community Services at the Alabama Development Office (ADO), Ms. Linda Swann.

The Commission could not have accomplished its goals without the invaluable input of officials from several key state agencies, including ADO, the Alabama Department of Revenue (ADOR), ADECA, the Alabama Industrial Development Training Institute (AIDT), and the Alabama Department of Industrial Relations (ADIR). Indeed, ADO assigned staff members to advise all three Committees. During the course of their deliberations, the various committees also received testimony, advice and research submissions not only from their assigned technical advisers but outside experts such as Ms. Betty McIntosh of bMAC Consulting Group in Atlanta, Mr. Bob Henderson of Ernst & Young LLP in Atlanta, Mr. John Corn of PricewaterhouseCoopers LLP in Atlanta, as well as representatives of the Economic Development Partnership of Alabama (EDPA) and the Alabama Technology Network (ATN).

Local chambers of commerce and economic development groups were encouraged to participate, and many did so. Their input was also invaluable.

Oftentimes the Committees would meet separately, occasionally meeting jointly or with members of other Committees or their technical advisers in attendance to provide additional input and coordination of effort. Many of the meetings were held in Birmingham, Montgomery or Clanton, while some involved conference calls instead. The amount of travel time alone by Commission members and technical advisers amounted to several hundred hours.

Recommendations

Each Committee, in consultation with its own technical advisers and those assigned to the other two Committees, developed its own report and recommendations. Then each Committee reviewed and commented on the other Committees' draft reports, followed by a vote of the full Commission on each draft report, subject to agreed-on editing changes. One recommendation, the formation of a long-term existing industries study commission, was suggested independently by each Committee. It was therefore resolved that such a recommendation should be jointly offered to the Governor first in this report, followed by the separate but interrelated reports of the Workforce Development Committee, the Facilities & Technology Committee, and the Tax Incentives Committee.

Although no one Committee recommendation should be viewed as more important than another, the Commissioners determined that workforce development issues as they relate to Alabama's existing industries should be most prominently featured, by placing that Committee's report and recommendations first in the series. The full report and recommendations of each Committee follows. We understand that the Commission's report, once officially delivered, will be released to the media and will be available for viewing on the websites for both the Public Affairs Research Council of Alabama (PARCA) (http://PARCA.samford.edu) and the Business Council of Alabama (www.bcatoday.org).

We must necessarily leave much discretion to the Governor to determine when or to what extent each of these recommendations should be implemented. For example, several recommendations involving new or expanded tax incentives will require some projection of what may be a short-term revenue cost but a long-term revenue gain and a valuable investment in this state's existing industries, especially in creating new jobs or retaining existing jobs. We recommend that such proposals be studied by ADOR and ADO as soon as possible in an effort to quantify their likely revenue and jobs impact.

We reiterate our firm belief that the Commission's work may indeed never be completed, and to that end, a long-term study commission should be formed and activated as soon as possible. We are advised that this report and the surrounding research effort is the most comprehensive of its kind in Alabama in many years, and the Commissioners and technical advisers are certainly proud of that fact. We stand ready to assist in the smooth transition of this effort to the work of the long-term study commission.

COMMISSION MEMBERS

Chair
Mr. Mack Dove
CEO
AAA/Cooper Transportation
Dothan

Mr. Johnnie Aycock
President
Chamber of Commerce of West Alabama
Tuscaloosa

Mr. Pete Black
Executive Vice President/General Manager
Alabama River Pulp Company
Perdue Hill

Mr. Fred Blackwell
Personnel Manager
Michelin North America
Opelika Plant

Mr. Charles Cole
President
Alabama Footwear, Inc.
Fort Payne

Mr. Jim Fincher
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3M Specialty Materials
Decatur

Mr. Mike Gough
Plant Manager
Calpine, Morgan Energy Center
Decatur

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Mr. Tim Lewis
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Ms. Larkin Martin
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Mr. David Muhlendorf
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Mr. Matt Parker
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Mr. Bob Powers
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Mr. George Richmond
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Ms. Donna Watts
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GOVERNMENT STAFF*

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* Commission staff members did not vote on any Commission matter. Staff members provided valuable input into the Commission's research and deliberative process, but their views do not necessarily represent those of their respective agency, company or law firm.

JOINT COMMITTEE RECOMMENDATION:

FORMATION OF LONG-TERM EXISTING INDUSTRIES STUDY COMMISSION

The Commission recognizes the tremendous importance of existing industry in Alabama and has studied a variety of existing and proposed incentives to Alabama's businesses to keep them in the state. A review of and recommendations as to many of those ideas follows later in this report.

The task of addressing the needs of Alabama's business community necessitates a long-term competitive study effort. This competitive analysis must be conducted in exactly the same fashion as it would be in any private business. Therefore, Alabama's strengths, weaknesses, opportunities and threats must be analyzed in depth. After such an analysis, action items must be defined and then recommended to Governor Riley and other key state officials. The Commission recognizes that to provide the Governor with a thorough strategy for strengthening and advancing Alabama's existing industries, it would need a research and development time period of several years.

Each of the three Committees of the Commission has developed recommendations that the Commission believes will provide much needed assistance and potentially competitive advantages to Alabama businesses. Because of the time constraints of conducting a thorough competitive analysis and thereafter developing a strategy utilizing regional, national and international best practices, the entire Commission came together to make the following recommendation:

The Commission on Existing Industries recommends that Governor Riley create a standing commission, comprised solely of private sector business leaders, to analyze other states' programs, to develop a list of best practices in the manufacturing, tourism, healthcare, technology/entrepreneurship, space/defense/government services, and agricultural/timber industries, as well as to pursue those recommendations of this Commission, as outlined later in this report, that cannot be immediately implemented.

Private businesses are forced to constantly assess the market in which they compete, in order to determine their respective positions and find opportunities for growth and success. Thus, businesses must perpetually search for strategies to provide themselves with competitive advantages. These essential advantages differentiate the successful business from the mediocre or failing business. Therefore, a business that can find its competitive advantage and capitalize upon it has a much greater chance of survival and success. This requirement is easily transferred to state economic development activities. Alabama should utilize these methods to determine a course of action to help its businesses survive and succeed.

Thus, the Commission recommends that the long-term commission proposed herein seek out and analyze successful strategies used by states considered to be leaders in each listed industry. The commission should be created by executive order of the Governor. The members of the commission should be chosen by the Governor but should include leaders from each of the six industries who would be willing to volunteer service. The commission members would serve two-year terms on a staggered basis, to allow continuity of activity and to avoid re-starting every time the commission is re-staffed. The members of the commission should take a sample of the five to ten best states in the industry they are examining. Then the commission, with assistance from the Alabama research universities and the appropriate state agencies including the Alabama Development Office, the new Office of Workforce Development, the Department of Economic and Community Affairs, the Department of Revenue, and the Department of Industrial Relations, would conduct extensive research on what gives those states an advantage over Alabama.

The commission should then determine the best course of action for Alabama to undertake with respect to each industry. Such recommendations should cover all areas of need and opportunity. The goal of the commission would be to compile a list of best practices in each industry in order to seek out and implement any action items that would give Alabama a competitive advantage.

As stated above, the long-term commission should also be charged with the responsibility of considering recommendations of this Commission that cannot be immediately implemented. These items should be compared to best practices, amended and expounded upon in order to provide for feasible implementation by the state. Each of the three Committees determined that its recommendations are important enough to be analyzed by the commission if they are not immediately implemented. Those ideas are highlighted later in this report.

In its deliberations, the long-term commission should consider each of its proposals in the traditional business manner, utilizing a cost-benefit analysis. This Commission has developed a list of factors that can be used to weigh the costs and benefits to the state. The key factors are as follows:

1. The quality and quantity of a new or expanding industry, including an industry that is substantially upgrading its plant and equipment, and the amount of out of state money that an investment can bring to Alabama;

2. The quality and quantity of new or expanding vendor and support jobs created in Alabama, often referred to as “spin-off” industries or suppliers;

3. The amount of additional wages paid to Alabamians as compared to current job opportunities for those employees; and

4. The additional taxes paid by the new or expanding (as defined above) industry and its employees plus those paid by new vendors and their employees, to the extent that these vendors are dependent on the new or expanding industry, as compared to the investment by the state.

This Commission stands ready to assist in the transition from this work product and research effort to the longer-term commission advocated above.

REPORT AND RECOMMENDATIONS OF THE WORKFORCE DEVELOPMENT COMMITTEE

With an increasingly competitive global market, the ability of industry to improve and increase the level of training of its workers is critical to maintaining existing jobs and businesses. Alabama's economy is more heavily dependent upon manufacturing for its job base than many other states; thus, the increased risk to Alabama's manufacturers from lower offshore labor costs has a more significant impact upon our state's economy. The pressure to provide a more skilled and productive workforce is consequently more important. The cost of retraining employees, particularly with regard to advanced technology skills, is greater than ever, and the cost to business for ongoing and renewed job training is significant.

The concept of a comprehensive workforce development system has become extremely important in recent years. The Federal government and many states have struggled with the breadth and scope of workforce development. The topic includes, but is not limited to, such areas as welfare-to-work, school-to-work, basic skills development, K – 12 improvement, English as a second language, new industry recruitment, existing industry training, small business advocacy, tax and incentive legislation, and more.

The Commission recognizes that all of these areas ultimately impact the success of existing industry. However, the Commission intends to limit the scope of its recommendations. For the most part, the recommendations concentrate on actions projected to have a more immediate impact on the State's existing industries and business climate. These recommendations can be implemented by taking short-term measures that will have long-term effects.

The Commission recognizes that our existing industries are facing increasingly competitive pressures. Global competition has produced a fierce need to improve productivity. This often requires new technology, leaner structures, and more highly skilled employees.

Coordination of Delivery Systems

1. *The Commission recommends that a new delivery system be created that not only coordinates, but also consolidates, the delivery of workforce development services for existing business and industry.*

On December 30, 2003, Governor Riley signed Executive Order Number 17, creating the Office of Workforce Development, and the Commission endorses this principle of coordination and consolidation. The vast majority of workforce development funding available to the State of Alabama is provided by the Federal government. Since these funds originated over time and from many disparate pieces of legislation, they are channeled through a number of different funding streams and agencies. From their own vantage points, these agencies assess needs and must respect widely varying federal requirements or "strings" that are attached to the distribution of funds.

Because of this, and in spite of well-intentioned efforts to streamline and collaborate, delivery of these services is currently fragmented. This fragmentation fosters overlap and duplication of effort, and confuses industries that could potentially benefit from these services. Inherent conflicts exist between the needs of existing business and industry and our capacity to cut red tape and deliver targeted services that are not encumbered by bureaucratic or territorial barriers.

The Commission recommends that the Office of Workforce Development take these fundamental principles into consideration:

- Coordination can best be accomplished through consolidation.
- Any model must respect the requirements of federal law, such as the recognition that the Governor must bear overall responsibility and direct control.
- A single point of contact for existing business and industry is needed.
- Business representation must reflect the requirements of the Workforce Investment Act.
- The impact of the State's changing demographics.

The goals and objectives for a consolidated approach must be clearly articulated. Among these objectives should be the reduction or elimination of barriers to access of services for existing business and industries. In addition, the State should seek ways to expand knowledge among the State's existing industries of the array of services that are available to them. Criteria for service delivery should take into account the needs of at-risk industry and the sustainability of the particular industry.

Funding and Incentives

2. *The Commission recommends that the Alabama Department of Economic and Community Affairs ("ADECA") take the lead in a coordinated effort with any other appropriate agencies to investigate and confirm that all state departments and agencies are maximizing all opportunities to receive federal dollars for workforce development and to produce a report to the Governor no later than March 30, 2004 with its findings and recommendations.*

While the WIA funding streams are clearly established under the WIA, there may be other grant opportunities in the form of pilot or demonstration programs available to aid existing business and industry. ADECA has established a Grants Task Force whose mission is to periodically survey federal grant opportunities and make sure the State of Alabama is qualifying for every dollar available. The Task Force will provide a mechanism to check pre-existing funding streams and to look for new opportunities by using available public websites on the internet and by contacting appropriate federal personnel to identify other programs and new funding streams. ADECA should be authorized to coordinate the participation of other agencies in this effort.

3. *The Commission recommends the review of resources available to support the creation of an "Existing Industry Workforce Development Fund."*

The development of a workforce development fund for existing industries, with a focus upon those industries, especially small business whose needs are not otherwise addressed by existing programs such as AIDT and WIA, would provide immediate benefits. The availability of an adequately-trained and qualified work force is absolutely necessary for Alabama industry to increase its employee base, to replace workers who retire or leave employment, and to "back fill" employee positions when attrition results from the flight to new higher paying industrial jobs. While there are some funds available for training of displaced workers through federal programs under the WIA, and new training is available in some cases for new employees hired as part of an expansion through the AIDT program, there are currently inadequate resources for retraining of employees for existing business and industry.

Increasing the availability of a qualified workforce should be an immediate priority for Alabama. Adequate resources should be available to help retain employees of at-risk industries, to increase competitiveness, to respond to advances in technology and changing global conditions that displace workers, and to help existing business and industry anticipate changing market conditions and industry demands on an expedited basis.

Approximately half the states, including many of those states with which Alabama regularly competes for jobs (such as Tennessee, Texas, and Georgia), have addressed the issue of developing their workforces -- in part through the establishment of job training funds with dedicated sources of funding. While the Commission does not opine as to the best-dedicated funding source, the Commission believes 100% of the funds accumulated by the Workforce Development Fund should be used to assist existing employers. Appropriate accountability and planning provisions, such as public reporting requirements contained in other states' programs, should also be included.

4. *The Commission recommends redefining "basic skills education" in order to increase the incentive to employers to provide in-house and on-the-job training.*

Alabama already recognizes the important role industry can play in improving the basic skills level of its employees. Section 40-18-135, *et seq.*, of the

Alabama Code provides a tax credit against the employer's income tax liability equivalent to twenty percent of the actual costs of education[1] to an employer providing or sponsoring an approved program. The program must be approved by the Alabama Department of Education. The Code defines "basic skills education program" as one "that enhances basic skills of employees up to and including the twelfth grade functional level."

From discussions with representatives of the Alabama Department of Revenue, the Commission believes this program is underutilized and should be broadened. "Basic skills education program" should be redefined to include: (a) sufficient training to ensure both a twelfth grade functional level, (b) training sufficient to allow the employee to obtain an entry level job requiring a high school education, or (c) training and retraining sufficient to allow the employee to obtain or maintain a job paying a wage at or above the employee's highest wage prior to training. Further, the credit should be expanded up to 100 percent of the cost of education and training, over a five-year period at up to 20 percent per year, so long as the employee remains employed by the employer or an affiliate at the same or higher wage level. The credit should neither be transferable nor refundable, nor should employers be permitted to carry it back or forward. To the extent possible, oversight of job training could be consolidated and coordinated with the Alabama Department of Post-Secondary Education/Alabama Industrial Development Training program, in conjunction with oversight of educational requirements for obtaining a twelfth grade functional education.

5. *The Commission recommends that the Governor and other State officials work with Alabama's Congressional delegation to increase the amount of Federal Unemployment Tax Act ("FUTA") taxes returned to Alabama each year.*

Alabama employers are paying over $100 million each year in FUTA taxes. This money is paid by each state to the Federal government, and a portion of it is returned to the states to operate specific programs associated with workforce development and security. The portion returned to the states has steadily declined over the past ten years.[2]

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[1] "Actual costs of education" include "direct instructional expenses incurred relating to instructors, materials, or equipment" used in a qualified program, or "for supplies, textbooks, or salaries, including compensation paid to employees while participating in an approved basic skills education program."

[2] Over the past ten years, there have been two instances when the downward progression of the states' allocation has been interrupted. In 1998, the percent returned to Alabama increased from 46.1% to 49.5%. In 2002 there was a $110.6 million Reed Act disbursement to Alabama. A Reed Act disbursement is required when the Federal Unemployment Trust Fund reaches a balance that exceeds the legal limit set by Congress. Currently, Alabama's allocation for fiscal year 2003 is estimated to be 45.9%. That represents approximately $47 million returned to the State, out of approximately $102.3 million paid by Alabama employers.

The money in the trust fund is designated for the Department of Labor programs in the states (in Alabama, the Department of Industrial Relations), and cannot be used for any other purpose. However, it is used by Congress and/or the Federal government to offset actual budget deficits. At a time when Alabama is severely deficient in monetary resources, the Commission finds it unreasonable to leave the hard-earned tax payments of Alabama employers sitting in a trust fund when the money could be utilized to enhance workforce development support for existing employers in this state.

6. *The Commission recommends that the new Office of Workforce Development review criteria for funding both the Incumbent Worker Training and On-the-Job Training Programs for at-risk industry and recommend specific criteria to the WIA Board for at-risk industry.*

The federal Workforce Investment Act authorizes the use of the Governor's 15% set-aside funds for Incumbent Worker Training. Local areas also may use on-the-job training funds for training incumbent workers. One million dollars were set-aside for Incumbent Worker Training for the current program year. Efforts are currently underway to move additional funding to Incumbent Worker Training and to reallocate funds that will not be spent under current contracts. The limiting factor is that many other priorities must be satisfied from these funds, including but not limited to: information technology contracts, dislocated worker training, and a share of career center costs for assessment, case management, and eligibility determination. A waiver request, which should be approved by the appropriate authority, will allow local workforce areas to spend up to 10% of local WIA funds (potentially $2.7 million) for Incumbent Worker Training. The Alabama Workforce Investment Area is conducting on-the-job training for current workers at existing businesses, which allows businesses to upgrade worker skills.

With the exception of a few general criteria, both the Incumbent Worker Training Grants and the On-the-Job Training programs are currently run on a first-come, first-served basis. For the Incumbent Worker Training program, these criteria include priority given to businesses (1) with 25 or fewer employees; (2) in rural areas; (3) in distressed inner-city areas; and (4) whose grant proposals represent a significant layoff avoidance strategy. The Commission recommends that the new Office of Workforce Development review these criteria and propose a revised set of criteria to the WIA State Board. These revised criteria should consider the needs of at-risk industry.

<u>Educating Localities About Resources</u>

7. *The Commission recommends that a single point of contact be established for existing business and industry.*

Programs designed to support existing business and industry come from a multitude of sources, including the private sector and federal, state, and local governmental agencies. Even the most experienced economic developers are challenged to identify all the programs (and their respective guidelines) that are available to existing business and industry because there is no single source for this information. Local businesses and industries, economic developers, chambers of commerce, and service providers such as consultants, law firms and accounting firms need an easy source to search and identify all support programs and corresponding guidelines available for existing industries. Programs that will formalize and support these efforts are also needed.

The single point of contact should be charged with the following areas of responsibility and/or oversight, as they relate to existing business and industry:

1) Collect information and details on all current programs designed to support existing business and industry. The information should be current and include:

a. Name of the agency, the point of contact, and how to contact.
b. Type of support offered and targeted industry.
c. Qualifications or guidelines for application and approval.
d. Economic developers and departments.
e. Existing industries guide that includes approximate number of employees, NAICS or similar identifier, point of contact, and how to contact.

2) Provide a comprehensive, easy, and cost-efficient means for interaction with the database. This should include:

a. A website available to the public.
b. Ability to search for programs, developers, or industries.
c. Online training in the use of the database and certification.
d. Information updates and notices placed online.

3) Develop a program for delivery of resource information to Alabama business and industry. This program will:

a. Train city, county, and/or regional representatives to support existing business and industry.
b. Establish standards and local accountability performance measures, and provide recognition of local existing business and industry programs that meet those standards.
c. Provide continuing education and information updates.
d. Promote the resource-training program to business and industry; this promotion effort should educate industry management on methods for accessing this information.

4) Provide a specific format that will enable an economic developer, community, or local chamber to audit its efforts and comparative status in

identifying and delivering support to existing business and industry in its area. This audit should include requirements for local support, training and certification, data required from the locality, communications programs with local industry, and coordination with the State's single point of contact.

Additional Recommendations for Enhancing Workforce Development

8. *The Commission recommends that current tax incentive programs be modified to allow existing business and industry to participate without requiring both significant capital investment and new job creation.*

The Commission finds that some of Alabama's programs for existing industries seeking to expand are unavailable because of threshold requirements for capital investment and/or new job creation. In some cases, the existing programs require both significant minimum capital investments and new job creation. While capital investment can be a good barometer of commitment to the State, and thus of import to the State's consideration of incentive grants, the Commission believes expansions, renovations, and technology upgrades by existing industries of any size similarly show a commitment to remain and grow in Alabama. Due to increased competitive pressure for productivity improvements, at-risk industry is frequently charged with finding ways to produce more with the same number of employees, and in some cases, with fewer, but more skilled employees. Therefore, it is recommended that incentive recognition be given for job retention. The Workforce Development Committee has reviewed and endorses the recommendations of the Tax Incentives Committee regarding the proposed "existing industries retention credit."

9. *The Commission recommends that local governing bodies ("granting authorities") empowered to grant Tax Incentive Reform Act ("TIRA") abatements also be given authority to defer payments and extend abatements of the non-educational portions of local ad valorem property taxes.*

Many of Alabama's traditional industries – e.g., textile, chemical, pulp and paper, forestry, seafood – are facing competitive pressures from international sources that have resulted in lost jobs, and in many cases have led to the closing of facilities. Current Alabama law allows local communities to grant abatements of the non-educational portion of local property taxes for up to ten years (and in some so-called "Class 6" cities, fifteen years), as well as to abate the non-educational portions of sales and use taxes associated with a qualifying new project or expansion, based upon the project's capital investment. *See Ala. Code* § 40-9B-1 et seq. (1975) ("TIRA abatements"). However, similar assistance to help at-risk industry or to prevent job loss is not presently authorized.

The Commission recommends that local granting authorities be given the authority to defer payments and extend abatements of the non-educational portions of local ad valorem property taxes. Such authority would be predicated upon an appropriate showing by a requesting local industry.

The Commission recommends, however, that the granting authority be allowed only to extend deferments in advance for one year at a time. The granting authority would be allowed to abate the property tax liability after the one-year period only if all of the taxpayer's obligations are met.

10. *The Commission recommends that constitutional amendments (either as one omnibus bill or in separate local bills) be passed to give all industry in Alabama the same opportunities in working with their local communities to maintain and expand jobs and workforce skills.*

Sections 93 and 94 of Alabama's 1901 Constitution prohibit the use of public resources for private purposes absent a specific constitutional authorization for such use. Currently, constitutional amendments allow approximately 40 of Alabama's 67 counties to use their resources, and in some cases the resources of municipalities therein, for economic development purposes. See, e.g., *Ala. Const*. Amend. 429. However, there are different forms of this constitutional authorization, and not all areas of the state have such authorization. The Workforce Development Committee has reviewed and endorses the recommendations of the Tax Incentives Committee along these lines.

11. *The Commission recommends that the Governor's Office, the Alabama Development Office ("ADO"), and local development authorities provide trade opportunities for businesses to develop trade relations both in Alabama and abroad.*

The success of Alabama's small and medium-sized businesses is the key to the economic prosperity of the State. Competition for local jobs is now global in scope, and the expansion of markets for Alabama companies beyond the United States would provide both a larger and a more diverse customer base to help existing industries maintain and increase jobs for Alabamians. With 96% of the world's consumers residing outside the United States, and barriers to free trade being lowered, the Commission supports efforts to assist Alabama companies in the creation of new jobs by expanding markets for their goods and services internationally.

Specifically, the Commission endorses the Governor's "Export Alabama" program, a public-private initiative funded by the private sector through the U. S. Chamber of Commerce and a grant from the U.S. Department of Commerce. The program focuses upon Alabama's "home grown" companies by providing education opportunities and materials for businesses and their employees, elected officials, and media sources, and resources available for developing a trade program and potential trade partners. In addition to job retention and job growth, Alabama should gain competitive international business advantages through the promotion of export growth.

The program should encourage expansion of partnerships with international business programs at universities and colleges throughout Alabama and coordinate and conduct programs and workshops with federal and state government resources.

12. *The Commission recommends that the mission of AIDT be expanded to include the authorization to serve existing and at-risk industry without a requirement for job creation.*

At face value, a sizable number of opportunities to help existing industries through training appear to be available at the industries' own sites. Among these opportunities are the On-the-Job-Training ("OJT") Program and Incumbent Worker Training Grants ("IWTG"). Other attractive programs are available for new and expanding industry through the services of AIDT. However, closer examination reveals practical barriers to full utilization of these programs. For example, OJT, IWTG, and other federally-funded programs often have strings attached that create limitations. These strings may target people who are disadvantaged, or who fall below a threshold annual income amount. They may favor unemployed people or people classified as youth workers. Often, this means that an at-risk industry may be unable to access such funds. This is particularly true if the industry needs to train, or re-train, existing employees for the purpose of job retention. In addition, current state-imposed maximums for IWTG grants are limiting. The Commission recommends that opportunities be sought to shift unspent funds from other areas to bolster these training dollars.

It is sometimes possible to obtain federal waivers that will expand these limits in order to help existing business and industry. However, those who need the services are often unaware of the existence of funding sources and even less aware that waivers to "rules and regulations" are possible.

Some of the most comprehensive industrial training services are available through AIDT. Unfortunately, by definition, AIDT is limited in its mission to the needs of new and expanding industry. What constitutes new industry is obvious. Job creation is required in order to meet the definition of an expanding industry.

We now live in an environment of consolidation and fierce competitive pressure to improve productivity. This means that many existing industries are learning how to produce more with less. We therefore see a greater focus than ever before to work harder to retain jobs. The introduction of new technology, increased automation, and other productivity improvements is often in response to the need to improve without the creation of new jobs. This is frequently part of the justification companies require in order to fund capital projects.

In the absence of an Existing Industry Fund and the appropriate authorization, AIDT is unable to serve existing or at-risk industries that are investing in order to keep pace with competition and to retain jobs, as opposed to simply adding new positions.

13. *The Commission recommends that the Small Business Advocacy Office be fully funded and supported to serve the needs of small business and existing industry.*

Created by legislative act in 1984 within the Alabama Development Office ("ADO"), the Alabama Small Business Office of Advocacy was charged with aiding, counseling, assisting and protecting, insofar as possible, the interests of small business concerns in order to preserve free competitive enterprise and maintain a healthy state economy; and providing information and assistance to citizens interested in entering into commercial activity. Although ADO staff recognize the fact that small business is big business in Alabama, the Small Business Advocacy program was last funded in fiscal year 1995-96 and with only enough to cover one salary and incidentals ($87,000). Since that time, ADO's total budget declined from $6.2 million to its current level of $3.6 million, and only minimal services in this area have continued as part of the daily operations of the Information and Community Services Division, mostly in the form of printed materials and referrals.

More than 93,000 establishments qualify for the services and support outlined in the eight duties and functions assigned to the Small Business Office by the Alabama Code -- 4,100 of which are manufacturers employing some 50,000 – 60,000 Alabamians, and hundreds of individuals interested in start-ups inquire annually. *See Ala. Code §41-9-763 (1975).*

The Commission therefore recommends that the effort be revitalized and funding be provided for at least one full-time professional, a staff support person, and small operational budget for office, printing and travel in order to fully implement the duties and functions as outlined in Code section 41-9-763. This office would work cooperatively with the Office of Workforce Development and other state agencies that impact small business, and will establish appropriate accountability and performance measures.

The Commission further recommends that consideration be given to making this a function of the Governor's Office.

14. *The Commission recommends that the Industry-Education Alliance program be resurrected and that sufficient resources to support it be provided.*

This Commission recognizes that meeting the training needs of Alabama's existing business and industry is essential to retaining and growing the companies that are located in the state. The Industry-Education Alliance was a program developed by AIDT that assisted local communities in determining training needs among its companies and to identify and coordinate resources to address these training needs. AIDT provided staff support, advice, and occasionally training classes to participating communities enabling them to incubate self-sustaining programs to address local companies' on-going training needs. The Commission further recommends that local programs be developed and implemented in coordination with the local workforce investment board.

AIDT initiated and partnered with the Industry-Education Alliance program from 1996 to 2003. The program was reluctantly discontinued by AIDT in October 2003 due to severe budget constraints. At that time, eleven communities were hosting Industry-Education Alliance programs.

The Industry-Education Alliance was an award-winning program. In 2001, Business Facilities Magazine awarded Alabama's Industry-Education Alliance program a bronze award in its Workforce Development Partnership-Workforce Training Initiative category. The Southern Growth Policies Board in 2002 recognized Alabama's Industry Education Alliance program in its best practices compendium of innovative programs in workforce development.

During the period that it participated in local Industry-Education Alliance programs, AIDT devoted one staff person full-time to support the program. Approximately four other staff members also spent about 20% of their time performing Alliance duties to support AIDT's effort to expand the program to additional communities. Estimated salary and benefits costs for these personnel would be $130,961 this year. In addition to these annual salary contributions, AIDT used approximately $8,000 per year for out-of-pocket expenses, such as travel costs, postage, material and supplies to support this initiative.

Some twenty-seven counties received assistance from AIDT to incubate Industry-Education Alliance programs. These Industry-Education Alliance programs were responsible for securing training for over 4700 employees, and all together, Industry-Education Alliance classes totaled over 54,600 hours.

Appendix 1

2001 County Business Patterns - Alabama
Number of Establishments by Employment-size class

Industry Code Description	Total	1-49	50-249	500 or more
Total	99,261	93,816	4,660	301
Forestry, fishing, hunting, and agriculture support	1,086	1,072	13	-
Mining	261	234	20	1
Utilities	510	451	46	4
Construction	9,258	8,931	296	8
Manufacturing	5,200	4,056	852	116
Wholesale trade	5,984	5,707	252	3
Retail trade	19,654	18,859	732	17
Transportation & warehousing	3,101	2,922	163	7
Information	1,670	1,534	113	8
Finance & insurance	5,913	5,737	140	12
Real estate & rental & leasing	3,773	3,735	32	4
Professional, scientific & technical services	8,375	8,130	214	8
Management of companies & enterprises	512	422	76	6
Admin, support, waste mgt, remediation services	4,089	3,661	344	43
Educational services	758	674	71	5
Health care and social assistance	8,889	8,288	503	51
Arts, entertainment & recreation	1,003	933	68	-
Accommodation & food services	6,870	6,351	509	1
Other services (except public administration)	11,439	11,237	194	2
Auxiliaries (exc. corporate, subsidiary & regional mgt)	156	122	22	5
Unclassified establishments	760	760	-	-

Source: U.S. Census Bureau

REPORT AND RECOMMENDATIONS OF THE FACILITIES & TECHNOLOGY COMMITTEE

Commission Chairman Mack Dove tasked the Facilities & Technology Committee (the "Committee") of the Commission on Existing Industries with the investigation and analysis of the infrastructure needs of Alabama's existing industries. The Committee held numerous meetings with the goal of discovering the needs of Alabama businesses. The Committee heard reports from industry leaders and directors of trade and industry groups and conducted extensive research into best practices that have fostered growth in, or retention of, existing industries in other states.

The infrastructure of the state is vitally important to businesses competing in the global economy. Alabama businesses require access to sophisticated communications, shipping and procurement systems in order to successfully compete. In the business landscape, connectivity encompasses all connections with suppliers, customers and service providers. The required connectivity is both physical and informational. The successful business must be able to capitalize on connectivity infrastructure for transportation of supplies, raw materials, finished goods, and sales and marketing information, just to list a few examples. Companies must be physically connected to a shipping network as well as connected to the vast amount of information required to make day to day business decisions. The duty of a state in assisting industry with connectivity is in creating and fostering the development of the infrastructure necessary to achieve that connectivity. A state must assist in providing the infrastructure to exchange goods, services, and information that allows its businesses to thrive.

Consulting companies that analyze infrastructure in the context of economic development focus on several factors. Those factors include the quality and quantity of roads, railroads, waterways, airports, sewer systems, water treatment facilities, utility providers, and broadband service lines. Additionally, some experts look into non-traditional infrastructure factors such as a strong and developed supply of service providers, an experienced and capable arena for research and development, and an overall environment of innovation. Alabama is a leader in some of these categories and is lagging behind in others. Therefore, it was the duty of this Committee to discover the areas in which Alabama could improve and to develop a plan of action to move the state to preeminence.

With these driving purposes, the Committee has formulated the following list of recommendations to Governor Riley. If implemented, the Committee believes these recommendations will assist Alabama businesses in growing to positions of market leadership:

1. The Committee recommends that Governor Riley initiate further improvements to the current transportation infrastructure in

Alabama, specifically, create a true international airport, accelerate the planned expansion of the Alabama State Docks, initiate improvements to the state's intermodal transportation facilities, and utilize fully the benefits of Alabama's Foreign Trade Zones.

2. The Committee recommends that the state establish a highly qualified technology task force to develop an "Alabama Science and Technology Policy" and to design an effective and visible organizational structure for implementing the strategy and advancing technology deployment across Alabama.

3. The Committee recommends that the Governor Riley propose a tax incentive initiative to provide income tax credits for "angel capital" for small businesses.

4. The Committee recommends that Governor Riley propose expanded funding for the Alabama Technology Network and Alabama Industrial Development Training.

5. The Committee recommends that Governor Riley propose the expansion of the existing Capital Credit and TIRA tax benefits to include technology industries which are not currently covered.

6. The Committee recommends that Governor Riley propose a Research and Development tax credit that emulates the federal credit and is transferable.

7. The Committee recommends that the state should instigate a "Buy Alabama" campaign among the Alabama business community that should include the creation of a searchable internet site that enables businesses to find Alabama goods and/or services.

8. The Committee recommends that Governor Riley propose that current site preparation and road and bridge grant programs be streamlined and expanded to provide a greater benefit to Alabama businesses.

9. The Committee recommends that Governor Riley propose a state investment into Alabama's colleges and universities for research facilities to be used in conjunction with Alabama businesses.

10. The Committee recommends that Governor Riley propose restoration of state support to the State Oil & Gas Board.

11. In light of the upcoming 2005 Base Realignment and Closure process, the Committee recognizes the tremendous economic impact of Alabama's military bases and commends Governor Riley

and the local communities for their efforts to retain Alabama's bases.

12. The Governor should encourage the Director of the Alabama Department of Environmental Management to expeditiously conclude a Memorandum of Agreement with the Regional Administrator of the U.S. Environmental Protection Agency Region 4 confirming that Alabama has an "adequate state Voluntary Cleanup Program" and an "eligible state cleanup program" pursuant to the EPA guidance and section 128 of the Comprehensive Environmental Response, Compensation and Liability Act.

The background deliberations and research related to each recommended action follow:

1. *The Committee recommends that Governor Riley initiate further improvements to the current transportation infrastructure in Alabama, specifically, create a true international airport, accelerate the planned expansion of the Alabama State Docks, initiate improvements to the state's intermodal transportation facilities, and utilize fully the benefits of Alabama's Foreign Trade Zones.*

Transportation is essential in a market based economy and is often the subject of much dispute in society. Issues such as urban sprawl, congestion, environmental impact, and land use planning are essential issues in a state's transportation policy. These issues are so vitally important to all aspects of life that there exist transportation experts and consultants to help establish transportation growth policies and quantify future needs. Constantly changing business and cultural needs, however, require growth and changes in the transportation infrastructure of the state. A state must have a strategic transportation infrastructure growth plan. The Committee views Alabama as a state that is in the position to make a quality investment in its transportation system and capitalize on the global nature of today's economy. This investment will provide the state with a competitive advantage over virtually all other states and provide it with the potential to become the premier shipping state in the Southeastern United States.

Alabama currently has the Birmingham International Airport, and strong regional airports in Mobile, Montgomery and Huntsville. However, these airports currently do not have the capability to rise to their fullest potential. These airports currently do not offer businesses with sufficient opportunities for non-stop one day travel, or large scale air freight services.

The Port of Mobile and the Alabama State Docks stand at the door step of international greatness. The port is currently a leader in agricultural and coal shipping, and has the opportunity to quickly move to the forefront in container shipping. Mobile's deep water port offers shippers a closer destination to the Far East and therefore has the opportunity to provide businesses across the Southeast with lower cost shipping to and from many places in the world. Thus, Mobile has the location to provide a strategic advantage over virtually any other port in the Gulf of Mexico.

In today's global economy, businesses need the infrastructure to allow them to compete in the local, regional, national and international markets. Alabama businesses need access to intermodal shipping in order to export goods and to procure supplies. The United States is constantly losing jobs to the international markets because of lower costs. The loss of U.S. jobs to international suppliers is unfortunate, but appears to be a reality in the current global economy. Alabama is in a position to modify its existing infrastructure to curtail these losses. The state is in the unique position to capitalize on the globalization of the U.S. economy by positioning itself as a thoroughfare for goods in route to and from the Middle and Far East through the Port of Mobile. The state must also be prepared to provide businesses in this state and those in the region with intermodal transportation for goods into and out of Alabama. Thus, Alabama can become a leader in shipping through the Southeast and the Midwest United States.

A. International Airport

Governor Riley should create a commission or task force to investigate the need for an expanded international airport. A large international airport could create the infrastructure to help meet the travel and shipping needs of Alabama businesses competing on the national and international markets. An international airport could allow Alabama businesses to have much greater access to all markets. The expansion of an Alabama airport into a major international airport would provide the state and businesses with a greater number of non-stop flights to national and international destinations. Providing Alabama business people with access to non-stop, one day travel and shipping all around the world.

The creation of an international airport in conjunction with improvements in the Alabama State Docks and the intermodal transportation infrastructure will provide a great advantage for Alabama businesses. Alabama businesses will then be able to lower shipping costs and remain viable in today's just-in-time supply chain structures. Further, Alabama businesses will have easier and more cost efficient means to provide their goods to customers in the state, throughout the country and around the world.

The Governor's commission should conduct a study of the current airports in the state and to determine the best location for such an addition. The commission should be charged with determining the feasibility of and the best location for a true international airport. The commission should be made up of private industry leaders and a governmental liaison so as to achieve a market driven result. The commission should utilize industry leaders with experience and a stake in the shipping market. These should be individuals in both the shipping and manufacturing industries that make up a cross section of Alabama businesses in the areas of size, type of business, location of operations and uses of shipping. The commission should look to size, location and capabilities of Alabama's current airports, and determine the best location and manner in which to create this new capability. The commission should investigate best practices and other state's successes and failures in order to determine Alabama's best approach with respect to capital investment and future economic, social and environmental impacts.

The commission should follow established air transportation analysis as provided by various consulting and informational groups. The Federal Aviation Administration has issued its "FAA Airport-Benefit Cost Analysis Guidance"[3] to provide information regarding necessary analysis for decision making bodies. This Guidance was prepared by the FAA in order to provide information to planners considering airport capacity expansion and to assist the FAA in granting funds under the Airport Improvement Program. Additionally, the Commission must measure the economic feasibility of the program in each location that it considers. There is a variety of other information for such projects readily available on the Internet.

B. Alabama State Docks container shipping facility expansion.

In conjunction with an international airport, Governor Riley should accelerate the already established funding for the Alabama State Docks' container shipping facility. This shipping facility can place the Port of Mobile in the ranks of the largest and best all around shipping facilities in the United States. Currently, the Alabama State Docks and the Port of Mobile is one of the largest and most utilized shipping centers for agricultural and coal products. The addition of a major container shipping facility would place Mobile as one of the premier container shipping and all around shipping ports in the United States. This addition would allow Mobile to quickly eclipse New Orleans because of location and facilities advantages.

The addition of an easy access port for international trade and shipping would provide Alabama businesses with a faster more cost effective manner of shipping. This competitive advantage would also provide the state with the best access for international shipping and provide a steady stream of revenue through the state with external utilization of the shipping facilities.

However, as discussed above, other aspects of the state's shipping infrastructure should also be analyzed in the creation of a world-class shipping infrastructure to benefit Alabama companies. This shipping infrastructure would provided Alabama businesses with fast, cost efficient access to international

[3] FAA Airport-Benefit Cost Analysis Guidance, Office of Aviation Policy and Plans, Federal Aviation Administration, December 15, 1999, *available at:* http://www2.faa.gov/arp/pdf/faabca.pdf.

goods and a cost effective export system. This would benefit both existing industry and provide a boost to the state economy because of the use of the shipping channels by businesses in other states and countries.

C. Intermodal Transportation Facilities

In addition to the completion of the container shipping facility and the creation of a competitive international airport, the state should assist in the establishment of integrated intermodal transportation facilities at the Alabama State Docks and at the new international airport. These facilities will provide all departing or arriving goods with access to all forms of transportation – air, rail, road, or water. Therefore, Alabama businesses will have access to the most efficient transportation that is needed for its goods. These intermodal facilities should be linked together to assist Alabama businesses in achieving a seamless transportation system.

Intermodal transportation is of increasing importance to businesses across the state. This infrastructure is also needed in many of the business parks across the state. Additional intermodal capacity can provide businesses with seamless supply and distribution chains. Intermodal transportation should provide industry with fast access to road, rail, air and water transport services with national and international reach.

D. Foreign Trade Zones

The Foreign Trade Zone program administered by the U.S. Department of Commerce allows these areas to utilize special customs procedures. These special procedures provide for duty free export and deferral of customs duty payment on items used in domestic commerce. These special procedures help domestic businesses compete with the customs cost advantages of overseas facilities.

Currently, Alabama has five Foreign Trade Zones and over fourteen Foreign Trade Subzones. Alabama's five Zones are in Mobile, Huntsville, Birmingham, Montgomery, and Dothan. Each of these Zones has special Subzones that extend the Foreign Trade Zone benefits to specific facilities in the area.

Foreign Trade Zones are utilized by many states to provide cost savings opportunities to businesses. The Committee feels that the benefits provided by Foreign Trade Zones, coupled with the vast shipping potential of the state, can provide Alabama businesses with a competitive advantage over competition in other states. Therefore, the Committee recommends that the state's Foreign Trade Zones be utilized and promoted by the state to their fullest potential.

2. *The Committee recommends that the state establish a highly qualified technology task force to develop an "Alabama Science and Technology Policy" and to design an effective and visible organizational structure for implementing the strategy and advancing technology deployment across Alabama.*

In the "New Economy," technology is one of the most important aspects of business. This growth of technology utilization does not ignore traditional brick and mortar infrastructure, but it does add many more layers for states to address and requires them to be aware of new ideas, thoughts, and processes. Therefore, state government must keep an ear to the ground to remain competitive and stay aware of the needs of science and technology industries. All fifty states have recognized, to some extent, this new component to the marketplace; the more aggressive states have instituted rather competitive methods to attract new high-tech companies. While new business recruitment is outside of the purview of this report, it is important in the discovery of the needs of existing technological businesses. Economic indicators with respect to high-tech industries include a highly skilled workforce, research and development infrastructure and communications capabilities. These factors, as well as a myriad of others, determine not only where a high-tech company with locate, but whether existing high-tech companies can compete and survive in a particular state. Pursuant to this, a state must maintain communication with its businesses in order to facilitate the changing needs of high-tech businesses.

A state science and technology policy can provide leadership and guidance to the state's educational, business and government systems. Such planning and policy making fosters growth and awareness of the effect science and technology has on every aspect of our economy. Therefore, the Commission urges Governor Riley to create a task force for the establishment of an "Alabama Science and Technology Policy." This task force should engage a cross section of talent from the state's technologically savvy companies. Input from these industry leaders should allow the state to address some of the needs of the state in the technology arena and create a forward looking statement of state policy.

The task force, with staff and research support from appropriate state agencies and university resources, would create a policy that fosters a state environment for progress, competitiveness and innovation in the science and technology fields. The task force would also be charged with developing an implementation plan for the policy that would include, but not be limited to, the facilitation of an on-going organizational structure for a highly visible Office of Science and Technology; interaction with existing firms for development, implementation and transfer of new and enhanced technologies; nurturing of niche industries in the technology sector such as life sciences and aerospace; and searching for funding for greater levels of research, development and implementation of new technologies within Alabama business and industry.

Growing technology-based industries such as these can provide economic benefits to Alabama through increased research and development and increased employment at higher wages. Alabama can establish a reputation for technological excellence by developing a single, knowledgeable authority focused on our future.

3. *The Committee recommends that Governor Riley propose a tax incentive initiative to provide income tax credits for "angel capital" for small businesses.*

Currently, Alabama is in the bottom half of all states in the area of capital investment and business assistance.[4] Alabama is ranked 27th in venture capital invested as a percentage of gross state product. The state is 38th in SBIC funds distributed, and 45th in initial public offering funds raised as percentages of gross state product. However, Alabama is 14th in the number of business incubator companies. These statistics show that Alabama businesses need greater capital investments to compete with businesses in other states. Therefore, the Committee recommends that Governor Riley propose a tax credit to incentivize this needed capital investment.

The Governor should propose the creation of a Small Business Investment Tax Credit. This program would allow a tax credit equal to the lesser of twenty percent or $10,000 of qualifying investments into registered small businesses. This credit would incentivize investment in small businesses in Alabama and would foster the expansion and development of high technology businesses in Alabama. Further, it could invigorate the Alabama economy by providing new capital for its businesses.

Small businesses have always been the largest employer in the state. These businesses often have trouble locating sufficient capital and investment to be able to grow and compete with larger companies. The influx of investment capital created by the credit can have the effect of assisting Alabama businesses raise the capital necessary to compete with out-of-state companies that have greater access to venture and angel capital. Thus, Alabama's small businesses would reap the benefits of greater investment and greater opportunities to compete and grow in the current business economy.

The credit program should be structured to benefit qualified small businesses. Small businesses should be qualified based upon industry, size, and growth potential. Qualified small businesses should be in any industry except for personal services, retail, leasing, or investment services (capital or real estate). Therefore, the beneficiaries will generally be involved in the manufacturing, technological, and other like industries. The qualifications should also provide limits based upon the size of the company. Companies with invested capital in excess of $10,000,000 should not qualify. However, an exception should apply for companies that exceed such amount based upon federal government research grants. Finally, companies should be required to submit a business plan that details the opportunities and uses for additional funding.

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[4] U.S. Department of Commerce Office of Technology Policy, "The Dynamics of Technology-based Economic Development," Third Edition, April 2003, *available at:* http://www.technology.gov/p_Reports.htm.

The credit should be provided to individual taxpayers that make equity investments into a qualified small business entity. Thus, any equity investment, regardless of size should qualify for the credit. Eligible investments should include any form of investment that is not debt. Therefore, all stock purchases (of either common or preferred issues) should qualify. Debt securities should not apply, however, convertible debt may be allowed upon conversion into equity securities. Options, warrants or any other right to purchase equity should not qualify until converted into equity securities.

The credit should be set in the amount of twenty percent of the equity investment or $10,000, whichever is less, for each equity investment. Taxpayers should be limited to $40,000 in credits per year for qualified investments. These credits may offset ordinary and capital gains income to the investor, but should not be refundable. Further, a short carryforward period should be provided, but should be no longer than three years. No carrybacks of unused credits should be allowed. The credit should be allowed only to individuals based on direct investments and ratable shares of investments made through flow-through entities. Further, the credit program should have a state annual maximum credit amount of $6 million. This maximum will allow the state to reasonably budget for the financial cost of the credit.

The credit should be implemented through qualifying small businesses. Each small business that desires to qualify and make the credit available to its investors would apply with the Alabama Department of Revenue. These applications should be filed by a certain deadline each year in order to allow the company to participate in the program for that year. The Department of Revenue would determine whether the business qualifies pursuant to the industry and size criteria as discussed above. Upon a determination that a company qualifies for that year, the business will be allocated a pro-rata percentage of the annual state maximum credit. Each qualifying company may then pass its allocable share of the credit on to its qualified investors.

The credit should sunset five years after its effective date. This sunset should provide that no further credits may be created after the sunset date; however, credits generated prior to that date should be honored. The sunset provision should provide the state with the opportunity to weigh the costs and benefits of the program to determine its feasibility as a long term incentive. The sunset provision should provide that, upon determination of its economic feasibility, it may be extended by a joint resolution of the Alabama Legislature.

4. *The Committee recommends that Governor Riley propose expanded funding for the Alabama Technology Network and Alabama Industrial Development Training.*

Since 1971, the Alabama Industrial Development Training Institute ("AIDT") has been providing quality workforce development for the businesses in the state. AIDT provides employee screening, hiring and training to new and expanding businesses in Alabama.

AIDT is one of the most successful, popular and beneficial incentives provided to businesses in the state. The AIDT is a crucial part of the facilitation of business in the state. AIDT provides businesses with the ability to expand and have a skilled workforce. This helps businesses survive and provides jobs to Alabamians. Therefore, the Committee recommends that the funding for AIDT be increased to enable it to provide more and better services to the businesses of Alabama.

The Alabama Technology Network ("ATN") provides technical assistance, workforce training, and assists in the transfer of technology for Alabama businesses. The ATN's mission is "[t]o be a primary source for serving the needs of Alabama industry using a cooperative network of business, education, and government." The ATN has ten "centers of technology excellence" that assist "Alabama's existing industry to be globally competitive."[5] The ATN provides Alabama businesses with access to the research and resources of colleges and universities in the state, and assists in the implementation of cutting edge processes, technologies, and ideas for business needs. The services provided by ATN help Alabama businesses institute new technology, cut costs, and meet the needs of a changing business environment.

In 2002, according to its annual report, the ATN increased Gross State Product by $324 million; increased State Personal Income by $173 million and created or retained 6,200 jobs in the state of Alabama. Further, ATN provided services to 830 businesses in the state and rated a customer satisfaction of 4.90 on a 5 point scale among those businesses.[6]

In December 2003, the U. S. Congress cut the MEP program which provides funds to small manufacturers through the country and helps support organizations like the ATN. In 2002, the ATN received over 20% of its budget from the MEP program. The Congressional funding cut will decrease MEP funding by sixty percent.[7] Therefore, the ATN is slated to have a severe shortage in funding for the 2004 year.

The ATN represents the format of industry assistance that is advocated by consulting groups across the United States. Further, the mission, goal and accomplishments of the ATN are monumental in providing results and an economic benefit to the state. Therefore, the Committee recommends the state restore the lost federal funding in addition to an overall increase in funding by ten percent per year for the next five years. Such an investment in the ATN will be recovered quickly in the state economy through the growth of Alabama businesses and the Alabama economy as a whole.

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[5] Alabama Technology Network, "About ATN," *available at:* http://www.atn.org/about.php.
[6] Alabama Technology Network, 2002 Annual Report, *available at:* http://www.atn.org/1/ATN_Annual_Report_2002.pdf.
[7] Alabama Technology Network Press Release "Congress Guts Assistance Program for Alabama Manufacturers," *available at:* http://www.atn.org/1/asst-program.pdf.

5. *The Committee recommends that Governor Riley propose the expansion of the Capital Credit and TIRA tax benefits to include technology industries which are not currently covered.*

The Governor should propose the expansion of the capital credit and TIRA benefits to include NAICS codes for high technology industries such as biological sciences, biological technology, communications and research and development. The inclusion of these industries would place Alabama in the position to provide incentives to high technology companies to enable them to grow into market leaders in the global economy. This would assist the states existing high technology companies by providing them with capital assistance for expansion and would further incentivize new businesses to be created or expanded in Alabama which would provide a continued growth and expansion in Alabama. This growth in the high technology and research and development industries in the state would foster a high-tech movement in Alabama providing a business environment for economic growth.

The high technology and research and development industries are hallmarks of the new U.S. economy. These companies are pioneers in creating new technology to keep the United States and Alabama ahead of the rest of the world. Further, these industries provide high paying steady jobs for the Alabama workforce. Currently, Alabama looses a large portion of its college graduates to other markets where high paying, high technology jobs are more prevalent. The growth of the high technology industry in Alabama would provide the means to retain and grow the educated, highly skilled workforce in Alabama.

The high technology and research and development industries are considered the primary industries for growth in the economic development arena. The companies in these industries are constantly growing and producing more and greater technologies that consumers and other businesses crave. The growth and establishment of the high technology corridor in Alabama would assist in the creation of a strong economic infrastructure for the state. The infrastructure requirements of the companies in those industries should be created and fostered, as it will provide the ability for continual updating and growth of nearly all other Alabama industries.

Therefore, the growth of these industries will provide for growth in the Alabama economy through infrastructure, employment and reputation. The benefit to the state's reputation as a high technology leader will increase employment, economic cash flow and provide a model for other industries and businesses.

6. *The Committee recommends that Governor Riley propose a Research and Development tax credit that emulates the federal guidelines and is transferable.*

An R&D credit in Alabama would provide the needed assistance for the state's high technology companies to increase R&D and continue to provide world class innovation. This assistance should provide increased funds to help companies be innovative and create better technology. It would also serve all existing industries by providing incentives for the creation and development of new processes. These new processes should provide Alabama manufacturers and other companies with the ability to create new ideas to increase costs savings and develop methods to increase their competitive advantage.

Governor Riley should propose a Research and Development Tax Credit that would be modeled after the federal R&D credit.[8] Therefore, taxpayers should receive a state income tax credit for a percentage of incremental increases in R&D. The proposed credit should be twenty percent and should not be refundable or available to carry back against prior tax liability. The taxpayer should however, be able to carry the credit forward to use against future liability or sell it in the market to companies that could benefit from it. Qualified R&D expenses should be defined to follow the federal model to the extent that the taxpayer conducts the research in Alabama.

The R&D credit should be established to sunset five years after its enactment. This sunset should provide that no further credits may be created after the sunset date; however, credits generated prior to that date should be honored. The sunset provision should provide the state with the opportunity to periodically weigh the costs and benefits of the program to determine its feasibility as a long term incentive. The sunset provision should provide that, upon determination of its economic feasibility, it may be extended by a joint resolution of the Alabama Legislature.

The credit should differ from the federal model in one major respect – transferability. Therefore, companies that have low or no tax liability would be able to benefit from the credit. The credit would incent those companies to invest in R&D and improve their competitiveness because the credit would still provide a benefit to them. Those companies would be able to sell the credits in the market to other companies that can utilize it against tax liabilities. Therefore, these companies would have new opportunities to better their business and have a capital inflow from the sale of the credits to assist in funding.

This increase in capital and spending ability would provide a benefit to the Alabama economy by creating more jobs and providing more capital in the state. Thus, the creation of the transferable R&D credit would assist existing industry to create better processes and technology to assist their businesses, create jobs and provide an increase in cash flow in the state. Therefore, the state would benefit by having an increase in profitable businesses, an increase in available jobs and an increase in the industry infrastructure required to foster new and expanding businesses in the state.

Every business environment analysis with regard to high-tech industries measures research and development. These analyses look at the amount of

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[8] *See* Section 41 of the Internal Revenue Code of 1986; Treas. Reg. §1.41-1 *et seq.*

capital expenditures in a state on R&D by the federal government, the state educational institutions, and private businesses. Alabama has consistently had competitive rankings because of the NASA expenditures in Huntsville. However, in order to provide advantages to other Alabama businesses, the state must take action to foster additional R&D.

According to the U.S. Department of Commerce Office of Technology Policy, Alabama's R&D rankings are generally in the top half of all states, but there is room for improvement.[9] For instance, Alabama ranks 30th in the "Total Performed R&D Expenditures" as a percentage of gross state product, and 37th in "Industry-performed R&D Expenditures" as a percentage of gross state product. However, Alabama is 4th in "Federally Performed R&D Expenditures" and 14th in "University-performed R&D Expenditures" as percentages of gross state product.[10] Pursuant to these figures, Alabama is doing well when the federal government and universities are conducting the R&D; however there is substantial room for growth in other areas. Therefore, incentivizing industry to conduct R&D can increase the rankings in these areas and instigate an environment of R&D as well as increase the reputation of Alabama as a leader in high-technology.

7. *The Committee recommends that the state should promote a "Buy Alabama" campaign among the Alabama business community that should include the creation of a searchable internet site that enables businesses to find Alabama goods and/or services.*

In the process of conducting research for these proposals, the Committee was informed by several industry participants that they need a manner in which to discover and locate Alabama businesses that can supply their needs for goods and/or services. Therefore, the Committee proposes that the Governor start a "Buy Alabama" marketing campaign. Further, the Governor should charge an existing development oriented agency with the task of creating and maintaining a searchable internet site that lists all Alabama businesses and their goods and/or services offered. This site will enable companies to search for and find Alabama goods or service providers which with to contract.

The Buy Alabama sentimentality should be stressed starting with the state, and expanding to the business community. The ideal should be spread to the business community and become a part of every Chamber of Commerce, Industry group, and any other business organization throughout the state. The success of this campaign will depend on industry participation. Every business in Alabama should be made aware of the campaign and provided with information regarding the website.

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[9] U.S. Department of Commerce Office of Technology Policy, "The Dynamics of Technology-based Economic Development," Third Edition, April 2003, *available at:* http://www.technology.gov/p_Reports.htm.
[10] *Id.*

8. *The Committee recommends that Governor Riley propose that current site preparation and road and bridge grant programs be streamlined and expanded to provide a greater benefit to Alabama businesses.*

Governor Riley should recommend that the Alabama Legislature enact legislation that would make the site preparation and the road and bridge grant programs useful to existing businesses. This recommendation should be that the funding for such programs are increased and the awarding of the funds should be available for all industries and programs that otherwise qualify for the grants.

Further, Governor Riley should recommend that the Legislature enact the required legislation to allow title to the property receiving site preparation grants to remain in the recipient business, not the local industrial development authority.

9. *The Committee recommends that Governor Riley propose a state investment into Alabama's colleges and universities for research facilities to be used in conjunction with Alabama businesses.*

The state of North Carolina was a forerunner in providing world-class research and development facilities through its University system. This extensive research and development atmosphere has provided the state with the infrastructure to consistently be a high-tech leader. This approach can be used in Alabama to provide Alabama businesses with world class research capabilities in convenient locations. Further, the investment in the state's colleges and universities will pay dividends on the educational front, provide real world research experience to students, and provide an incentive for these highly skilled students to stay in Alabama.

As previously discussed, R&D is crucial to the state's high-tech companies. This expanded collaboration between Alabama businesses and the educational community can provide great benefits to the state's existing industries. First, it will provide an excellent arena in which to conduct R&D. Second, it will allow the businesses to have a hand in the instruction of its future employees – the students – by crafting R&D plans, strategies and ideas with professors and students. Next, it will create relationships between Alabama students and industry participants, therefore expanding awareness of the Alabama job market for those students and expanding the likelihood that those graduates will remain in Alabama. Finally, the expansion of college and university research, and R&D in general, would foster a reputation for excellence in innovation for the state's colleges and universities assisting in student recruitment.

10. *The Committee recommends that Governor Riley propose restoration of state support to the State Oil & Gas Board.*

The State Oil & Gas Board conducts the permitting functions for the oil and gas and coalbed methane industries. Alabama's coalbed methane industry has created numerous employment opportunities for Alabamians as well as a huge impact on the state's economy. In December 2003, the Center for Business and Economic Research at the University of Alabama released preliminary results of a statistical study in which it concluded that the industry provided almost $3 billion in economic output from 1990 to 2002. The study further found that, during the same time period, the industry provided over $300 million in household earnings.[11]

However, the industry's regulatory oversight board is fighting for survival amidst the budget cuts it is facing. The State Oil & Gas Board has suffered funding cuts of close to $400,000 and more are proposed. The Board is vital to the survival of the industry, because without permits, no new wells may be drilled. Thus, the Board provides an essential service to an industry that is an integral part of the Alabama economy. Based on this, the Committee recommends that Governor Riley propose the restoration of funding for the State Oil & Gas Board to enable it to conduct its crucial function for this industry.

11. *In light of the upcoming 2005 Base Realignment and Closure process, the Committee recognizes the tremendous economic impact of Alabama's military bases and commends Governor Riley and the local communities for their efforts to retain Alabama's bases.*

In 2005, the U.S. Secretary of Defense will make recommendations for the closure and realignment of military bases across the country. Numerous studies have shown that military bases have an enormous economic impact on their communities and states. Alabama currently has four military bases – Redstone Arsenal, the Anniston Army Depot, Fort Rucker, and Maxwell/Gunter Air Force Base. These installations provide Alabama with over 56,000 military and civilian jobs and have an economic impact that has been estimated at close to $38 billion per year.[12]

The Committee recognizes the vast importance of the military on the Alabama economy and stresses the need to retain these bases and related industries. Therefore, the Committee commends the Governor and Alabama's BRAC team for their continued efforts to retain Alabama's valuable military installations.

12. *The Governor should encourage the Director of the Alabama Department of Environmental Management to expeditiously conclude a Memorandum of Agreement with the Regional Administrator of the U.S. Environmental Protection Agency Region 4 confirming that Alabama has an "adequate state Voluntary Cleanup Program" and an "eligible state cleanup program" pursuant to the EPA guidance and section 128 of the Comprehensive Environmental Response, Compensation and Liability Act.*

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[11] "Alabama Coalbed Methane Monthly," December 2003.
[12] Mary Orndorff, *Base Value*, The Birmingham News, January 11, 2004, *available at* http://www.al.com/search/index.ssf?/base/news/1073816411162511.xml?birminghamnews?nstate.

The Committee recognizes the benefit to Alabama businesses provided by the ability to locate on or otherwise utilize so-called “brownfield” locations, without the added potential for environmental liability under the federal Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”). Currently, Alabama has environmental laws limiting the liability for those businesses that wish to voluntarily clean up environmentally-damaged sites. However, the Alabama laws have no effect on federal enforcement.

Therefore, the Committee recommends that the Governor encourage the Director of the Alabama Department of Environmental Management to secure a Memorandum of Agreement with the Regional Administrator of the U.S. Environmental Protection Agency, Region 4. This memorandum is required to enable Alabama businesses to clean up their sites and receive liability relief from both Alabama regulatory authorities and the federal Environmental Protection Agency.

REPORT AND RECOMMENDATIONS
OF THE
TAX INCENTIVES COMMITTEE

The Tax Incentives Committee of the Governor's Commission on Existing Industries was given the responsibility of reviewing Alabama's existing industrial incentives structure and then comparing those incentives to the tax and other incentives offered by competing states. Although emphasis was placed on existing industries incentives, the Committee also considered suggested changes to existing incentives that might also assist in attracting new industries to the state. The Committee was fortunate to have received valuable input from several economic development consulting firms, both within the state and headquartered in other states, and from its technical advisers. Not all recommendations or ideas were adopted by the Committee, but one theme was consistent throughout the testimony or advice offered by the Committee's consultants: given Alabama's current tax structure and available tax incentives, incentives generally are not the determinative factor in whether a company remains in Alabama or chooses to locate here. Instead, quality of workforce and quality of life issues, along with other market factors, typically drive those decisions.

As can be seen from a quick reading of the below recommendations, the Committee's deliberations covered a wide array of tax and other incentives issues, some focused on small business retention and growth, some focused on larger industries, and some that apply to all businesses—large or small. In addition to the Committee's own deliberations, both the Workforce Development and Facilities & Technology Committees suggested useful incentives ideas of their own. To the extent those ideas emanated from one of those two Committees, they are simply endorsed and cross-referenced in this report.

<u>Recommendation #1</u>: Endorse streamlined sales tax legislation that would simplify Alabama's sales and use tax filing system, and create "one-stop" filing and payment for electing businesses operating within Alabama, as opposed to being faced with filing numerous sales and use tax forms for each and every self-administered county and municipality in Alabama.

1) **Streamlined State and Local Sales and Seller's Use Tax Filings**:

Alabama is unique among all the states levying a sales and use tax in that each municipality and each county has the right to levy and collect its own sales, use, rental, and lodging taxes or to authorize the Alabama Department of Revenue ("ADOR") to handle those responsibilities. The majority of the municipalities and counties have elected to self-administer those taxes, or to contract-out that function to one of a handful of private auditing firms. Small businesses are hardest hit by this phalanx of tax filing and monitoring responsibilities, and the risk of a multitude of tax audits, although any company that does business in more than one municipality and county in Alabama bears this unique burden.

The Streamlined Sales and Use Tax ("SST") bill, introduced in the 2003 legislative session, would, in theory, have required centralized filing for sales and use tax returns for all counties and municipalities. The goal of the SST bill, and the national SST project, is to simplify and centralize the sales and use tax collection process by implementing a national set of rules within which states and businesses can operate, as opposed to businesses being faced with potentially thousands of different filing requirements in each state and ultimately within each county and municipality.

A large majority of the states have joined the SST Coalition and a sufficient number of them have passed enabling legislation to trigger the formation of a governing board and to meet the threshold requirements of pending Congressional legislation. See www.streamlinedsalestax.org. There is some debate regarding whether federal legislation is required to enforce the act's collection obligations, but legislation necessary to address that concern is now pending in committees of both the U.S. Senate and House of Representatives and is expected to be debated next month.

On June 9, 2003, the Alabama House of Representatives voted to indefinitely postpone the Streamlined Sales Tax conformity bill, H.B. 649, due to opposition from some of the larger self-administered municipalities and counties, the private auditing firms, the Alabama League of Municipalities, and the Association of County Commissions. These groups were concerned about a perceived loss of autonomy and of control over the audit function and concerns over the ADOR's ability to administer the act.

The Committee endorses enactment of legislation conforming to the model SST Agreement, following a renewed effort to address the concerns of the self-administered municipalities and counties. Enactment of this legislation would begin the process of simplifying Alabama's sales and use tax filing system, creating "one-stop" filing and payment for businesses operating within Alabama, as opposed to the current risk of being faced with filing numerous sales and use tax filings for each and every self-administered county and municipality in Alabama. It would also put in-state "bricks and mortar" retailers and out-of-state catalog merchants and e-tailers on a much more level playing field. The positive revenue impact caused by increased sales and use tax compliance cannot be overlooked. Estimates of the new revenue generated by the eventual implementation of this act range from $200-$250 million annually, according to ADOR estimates and a recent study conducted by three University of Alabama at Birmingham accounting professors.

On a related note, the Committee applauds the recent efforts of the ADOR in establishing an on-line filing system for state and local sales and use taxes. The system is currently available for state sales, use, rental and lodging taxes as well as local sales, use, rental and lodging taxes administered by the ADOR. The

Committee was advised that the system will soon be available for filings with electing self-administered localities as well. That will represent a major step toward reducing the filing headaches suffered monthly by businesses with multiple locations or that do business in multiple localities within the state. The Committee recommends to the Governor that additional governmental resources be devoted to this long-needed project.

<u>Recommendation #2</u>: Implement legislation that would streamline and centralize state, county, and municipal business licenses. Consider the establishment of an online filing system, similar to the Tuscaloosa County and West Alabama Chamber of Commerce website for business license filings.

2) **State, County, and Municipal Business License Reform**:

After several rounds of negotiations between various business and government groups, the Business License Reform Coalition, comprised of several of the larger business and trade associations, introduced its "Municipal Business License Reform Act of 2002," during the 2002 regular session, which closely resembled the 2001 version. The House and Senate committees unanimously endorsed the bill but the bill was pulled for further study, due to opposition by various parties—some municipal and some business. The Business License Reform Coalition had also begun work on a state/county license reform bill, but completion of those efforts was delayed due to a decision to complete work on the municipal license bill first.

Currently, filing for these two licenses requires totally separate efforts. The state/county license is administered by the 67 counties while the municipal business license is administered by each municipality. Unfortunately, each municipality has its own filing requirements, classification rules, rate structures, etc. and, like the state/county license, requires that its license be purchased separately each year. Tuscaloosa County, in conjunction with the Cities of Tuscaloosa and Northport, and the Chamber of Commerce of West Alabama, has created a website that allows businesses to purchase both their state/county and municipal business licenses as well as apply for certain other local tax numbers and accounts. See *www.tuscaloosachamber.com/youronestopcenter*.

The Committee recommends completion of the Business License Reform Coalition project including enactment of legislation that would streamline and centralize the purchase of state/county and municipal business licenses. First and foremost should be the implementation of an optional on-line application system for both types of licenses, analogous to the availability of the state hunting and fishing license on-line, which reportedly has been extremely popular. A possible paradigm would be the West Alabama Chamber's website mentioned above.

<u>Recommendation #3</u>: Follow the majority of the states and provide for "double-weighting" the sales apportionment factor of a multistate company, creating an income tax incentive for a company located in Alabama to export its goods either overseas or across state lines.

3) Double-weighting the sales factor for income tax purposes.

The vast majority of states that levy a net income-based corporate tax have, over the years, amended the traditional three factors of sales, property, and payroll, used in calculating the amount of income attributable (or "apportioned) to their state, to incentivize companies located in their state to export their goods to out of state or overseas markets. Typically, that is accomplished by increasing the weight given to those out-of-state/overseas sales if the destination jurisdiction taxes the seller on those sales revenues. If the sale is not taxable in the other state or country, then it is "thrown back" to Alabama and taxable here.

According to a study conducted on behalf of the Public Affairs Research Council of Alabama, Alabama is surrounded by states that have already enacted double-weighting or have gone even further to increase the benefit to their in-state companies that sell their goods out-of state while increasing the income tax burden on companies located in Alabama that sell their goods into those states. See http://PARCA.samford.edu/ *State Taxes, Finances & Debt "Considering the Double-Weighted Sales Factor for Apportioning Business Income in Alabama" (Feb. 2001). See also* K. Edmiston, "Single-Factor Sales Apportionment Formula in Georgia—What is the Net Revenue Effect?," 31 *State Tax Note*s 107 (Jan. 12, 2004). The revenue estimates related to such a proposal contemplate either an annual revenue loss of approximately $2 million (ADOR estimate), or in the alternative, a short-term loss in revenue of between $1 to $2 million annually for the first few years, then likely revenue neutrality thereafter, coupled with an immediate increase of approximately $402,000 in business privilege tax receipts each year (PARCA Report estimate).

Recommendation #4: Enact a state income tax credit to encourage research and development by companies doing business in Alabama or that contract out that function to qualifying university researchers, in conformity with the federal R&D income tax credit.

4) State Research and Development Credit:

The Committee has reviewed the recommendations of the Facilities & Technology Committee regarding the need for a state research and development tax credit, patterned after the federal statute, and endorses those recommendations.

Recommendation #5: Amend the existing ADOR ad valorem property tax appraisal manual to confirm that business personal property, including obsolete equipment, is to be valued for tax purposes at fair market value, but impose a "safe harbor" for the convenience of both taxpayers and the ADOR.

5) Ad Valorem Property Tax Valuation for Business Equipment:

To achieve statewide uniformity, the market value of all tangible personal property must be determined by using the procedures in the Alabama Personal Property Appraisal Manual. *Ala. Admin. Code* r. 810-4-1-.04(1). This Manual, along with the *Alabama Constitution* and *Code of Alabama*, require that real and tangible personal property be valued at fair market value. *See Ala. Code* §§ 40-7-1 *et seq.* (1975).

In the Manual, however, the ADOR currently requires that business personal property can only be depreciated to certain "composite factor" floors for determining assessed values. In other words, the value of personal property cannot be assessed below a certain percentage of its historical cost, regardless of its age, even though its book value (for income tax purposes) is much less. In special circumstances, though, the taxpayer can petition to have the value reduced or assessed at zero, but we understand those are not common; valuing the personal property at the composite factor minimum is the norm. This often results in antiquated and outdated equipment being assessed at far above its actual fair market value. Businesses must therefore continue to pay ad valorem personal property tax on this equipment even if it is idle or unusable, unless (as mentioned above) a special valuation agreement is obtained, or the business owner disposes of it or simply scraps it.

The Committee recommends that the Governor direct the ADOR to promulgate a regulation that values personal property at its current fair market value, but provide for an administrative "safe harbor" of 10% of original cost, or one-half the scrap value (as under current rules), if the equipment has reached the end of its economic useful life. Fair market value may be determined by a third party appraisal or documented sales of like assets. The burden of proof would remain on the taxpayer unless the safe harbor is claimed.

Recommendation # 6. Amend existing incentives statutes to require a company that is later determined not to have qualified for the incentive, or that falls below certain benchmarks during a specified period of years thereafter, to forfeit or repay the incentive, or a portion thereof, based either on the contract negotiated between the incentives granting authority and the company, or otherwise as determined by the long-term study commission.

6) Performance-Based Criteria for Newly-Granted Incentives

The rules in the various incentives statutes that specify the consequences if the applicant receives or is granted the stated incentive, but is later determined to be ineligible, are varied if not non-existent. The Capital Credits Act imposes the most clear set of performance guidelines, also known as forfeiture provisions or, if repayment is required, "claw-backs." Assuming the applicant initially qualifies for the income tax credit, if the applicant subsequently falls below certain stated thresholds for the minimum number of new jobs during any given year, then the credit for that year is forfeited. After three years of non-compliance, the credit is forfeited for not only those three years but for the remaining term that the credit would otherwise be available. See *Ala. Code* § 40-18-193 (1975) and corresponding ADOR regulations. Claw-back or "recapture" provisions are also found in the relatively new "CAPCO" legislation, relating to insurance premium tax credits for so-called certified capital companies. See *Ala. Code* § 40-14B-12 (Supp. 2002).

The Committee understands that the State has in the past negotiated private forfeiture or claw-back agreements with some of its larger industrial recruits, which apply to incentives beyond just the capital credits. The Committee is also aware that various forfeiture or claw-back conditions have been imposed by local industrial development authorities or county or municipal government entities on the grant of local incentives. First and foremost, the Committee believes that such contracts are and should be enforceable as a matter of public policy. To that end, the Committee would recommend to the long-term study commission described earlier in the report that consideration be given to amending the *Alabama Code*, if needed, to ratify and authorize such private contracts. The Committee also recommends that the long-term study commission consider the application of forfeiture provisions to other incentives or abatements granted by the state or local incentives-granting authorities, taking into account the varied terms of these incentives and abatements and the policy behind each.

Recommendation # 7: The Capital Credits Act's qualification criteria should be conformed to those of the Tax Incentive Reform Act ("TIRA") and both expanded to permit certain industries that presently don't qualify to apply for such credits or abatements.

7) Capital Credits Recommendations:

Capital credits are administered by the ADOR and are available for a "qualifying project," to be applied annually to the state income tax liability generated by the project over a 20 year period. *See Ala. Code* §§ 40-18-190 *et seq*. (1975). The credit is calculated annually at 5% of the total capital costs of the qualifying project and the credit begins in the year the qualifying project is "placed in service." The qualifying project must constitute either a "headquarters facility" or an "industrial, warehousing, or research activity," defined as any trade or business described in the 1997 North American Industrial Classification System ("NAICS").

a. These NAICS classifications include most but not all manufacturers, publishers, information/data transmission services; data processing and computer design and related services; testing laboratories and research and development facilities in the life sciences, physical, and engineering industries; Internet/on-line service providers; and any process or treatment facility which recycles, reclaims, or converts materials, which include solids, liquids, or gases, to a reusable product.

b. There are certain capital investment, employment, and hourly wage thresholds as well, ranging from an investment of $500,000 to $2,000,000 and new employee requirements of 5 to 20 new jobs, depending on the location and type of project. Wage requirements are generally $8-$10 per hour.

c. "New employee" means individuals who are subject to Alabama income tax and who have never worked at the site before, and who have not worked for the project entity in Alabama before. *Ala. Code* § 40-18-190(9).

The Committee recommends that the list of qualifying industries be expanded to include industries that should be fostered in Alabama such as those related to medicine and life sciences, hospitals, medical laboratories, technology, financial services, and call centers. Correspondingly, the long-term study commission should be granted the authority to periodically recommend to the Governor and the Legislature amendments to the classification codes to cover new industries not otherwise covered or the expected changes in the national classification system over the next few years. Correspondingly, the financial institution excise tax statute would be amended to allow this credit against a qualifying financial institution's tax liability since the FIET is the corporate income tax counterpart for banks and other financial institutions.

The Committee also recommends allowing an existing industry to count rehired former employees who were previously laid off, after at least two calendar years have elapsed between lay-off and rehire, toward the minimum employment thresholds for an otherwise qualifying expansion, with some outside approval process, e.g., by the ADO or ADECA.

The Committee believes that our incentives statutes should conform with current industry practice. Increasingly, companies today use so-called "leased employees" to staff their plants and other facilities in Alabama, and the practice is quite legitimate and is undertaken for non-tax reasons. For example, corporate structures whereby a parent company creates an entity for purposes of consolidating payroll expenses and management, which hires and then leases its employees to the various operating entities, are becoming more and more prevalent. The Committee therefore recommends that certain leased employees should count toward the Act's minimum employment thresholds so long as they are employed by an affiliated entity of the investing company.

<u>Recommendation # 8</u>. *The industry qualification criteria for TIRA abatements and Enterprise Zone credits should be modernized and should use the same U.S. industry classification codes as apply to the Capital Credits Act, with authority granted to the long-term study commission to recommend updates to those codes from time to time. Additionally, the local granting authorities should be permitted, under certain conditions, to abate rental taxes and utility gross receipts taxes.*

8) Abatement of Certain Sales, Use and Property Taxes:

The Tax Incentive Reform Act of 1992 ("TIRA") allows private companies to apply for abatement of certain property and construction-related sales and use taxes, and mortgage and recording taxes/fees, with respect to qualifying projects and additions to existing facilities. *See Ala. Code* §§ 40-9B-1 *et seq.* (1975).

a) *Basic Requirements:* Generally, anyone who proposes to become a "private user" of certain industrial development property or of a "major addition" thereto may apply for an abatement of all state sales and use taxes and the non-educational portion of the local sales and use taxes, as well as state and local non-educational property taxes. Generally, mortgage and recording taxes are only abatable if the real property is to be held in the name of a public entity. The private user must, however, meet certain requirements.

   i) *SIC or NAICS Code:*

      (1) First, the project must be classified under the proper Standard Industrial Classification ("SIC") or, in some cases, NAICS. The SICs include: manufacturing; wholesale trade - durable & nondurable goods; computer services; cotton ginning; refined petroleum pipelines; commercial physical and biological research; noncommercial research organizations; and testing laboratories.

      (2) NAICS subsector 493 (warehousing and storage), Industry number 488310 (port and harbor operations), and 488320 (marine cargo handling) when such trade or business is conducted on premises in which the Alabama State Port Authority has an ownership,

leasehold, or possessory interest and such premises are used as part of the operations of the Alabama State Port Authority.

(3) Beginning April 1, 2003, a trade or business in counties with populations under 30,000 engaged in the post-harvest processing of peanuts may qualify, but only for state and local taxes that do not fund public education (i.e., in contrast to the normal rules, not all state sales and use taxes are abatable under this category). *See Acts of Ala.* 2003-503.

b) *Taxes That May Be Abated*. If an abatement is granted, the following taxes are generally abated for the new facility or major addition:

i) *Property Taxes:* The noneducational portion of state and local property taxes may be abated for up to 10 years.

ii) *"Construction-related* Transaction *Taxes":* These taxes are defined as those "imposed by Chapter 23 of this title [40], on tangible personal property and taxable services incorporated into an industrial development property. . . . ." *Ala. Code* § 40-9B-3(2) (1975). Generally, these taxes are the noneducational local sales and use taxes (i.e., municipal and county) and all applicable state sales and use taxes.

iii) *Mortgage and Recording Taxes:* All mortgage and recording taxes that may be due as a result of the conveyance of the industrial development property into the name of or out of the name of the county, municipality, or local industrial development authority.

The Alabama Enterprise Zone Act of 1987, administered by ADECA and designed to stimulate business and industrial growth in economically depressed areas of the state, uses the same antiquated SIC Codes to determine which industries qualify. *See Ala. Code* § 41-23-1 *et seq.* (1975) and *Ala. Admin. Code* r. 305-5-3-.06.

The Committee recommends that the industry classification codes for the Capital Credits Act, TIRA, and the Enterprise Zone Act be conformed, which means converting to the more modern NAICS codes and adding the above-referenced classifications as listed for the capital credits. As discussed above, the Committee believes that the long-term study commission should be granted the authority to recommend changes to the NAICS codes as they are updated at the federal level or as new or different types of industries seek to locate or expand in the state. The Committee also recommends that the study commission consider recent proposals by ADECA and the industrial development community to update and revitalize the Enterprise Zone Act.

The Committee also recommends that consideration be given to adding the state and local, non-educational portion of the rental tax to the list of abatable taxes; the abatement to run for a period equal to the lesser of the initial term of the lease or the standard property tax abatement period. Modern business practice often involves leasing equipment, rather than purchasing it. Including the rental tax would function to cover any leased tangible personal property used by the business, but only in connection with a qualifying new facility or major expansion. Abating the rental tax would also be useful to supplement the list of abatable taxes under the recent film industry incentives statute, enacted in 2001. See *Ala. Code* §§ 40-23-4(a)(46) and 41-7B-2 (Supp. 2002).

The Committee understands that, in many cases, the utility gross receipts tax comprises the largest tax obligation for many new or expanding industries and that income tax credits and even property tax abatements are not so valuable due to the industry's financial circumstances or the manner in which its facility is owned or leased. The Committee therefore recommends that the UGRT be added to the list of abatable taxes, to be granted only in lieu of property tax abatements, for a period equal to the property tax abatement period.

Recommendation #9: The long-term study commission discussed above should be charged with further study and the development of a cost-benefit ratio relating to a so-called "existing industries retention credit." Qualifying for such a tax credit would entail involvement of both local and state industrial development authorities but would allow a qualified at-risk industry to reduce one or more of its state tax obligations if certain financial commitments and other benchmarks are met, and achieved over a period of years. The goal of the credit would be to incentivize the qualifying industry to remain in Alabama and to maintain an agreed level of employment.

9) Possible "Existing Industry Retention Credit" (or "EIRC")

Most of the existing tax credits and abatements benefit a business in Alabama over a relatively long period of time, such as the 20 year income tax capital credit or the 10 year ad valorem property tax abatement. The Committee recommends consideration of a proposal that would create an immediate benefit to an at-risk or struggling business. The long-term existing industries study commission described below would complete the work this Committee has begun, in order to fully develop the parameters of such a credit, hopefully as its first goal. The general idea surrounding the proposal, as developed by the Committee and after receiving input from the Workforce Development Committee, follows.

The proposed credit would be an annual tax credit equal to 20% of the qualifying capital costs of a qualifying project. However, the credit program would have an annual dollar ceiling, established by the enabling legislation and reviewed by the Legislature from time to time, that would be allocated to certified taxpayers on a first come–first serve basis. Like the Capital Credits Act, the EIRC program might sunset after five years, unless extended by the Legislature.

(a) The Committee would envision that the tax credit could be used to offset certain tax liabilities attributable to the qualifying project, such as: corporate income tax; personal income tax (for flow-through entities); business privilege tax; utility gross receipts tax; non-educational portion of state and local property tax (similar to the TIRA abatements); state and non-educational local sales and use tax (similar to the TIRA abatements); and the financial institution excise tax. The proposed tax credit would be non-refundable and, possibly, transferable to other Alabama taxpayers. If so, however, credits should not be transferable in the first year the credit is awarded to the taxpayer.

(b) The tax credit would have no carry-back but a 10 year carry-forward limit for both the original grantee and any subsequent purchaser.

a. A "qualifying project" would be limited to those which meet the following requirements:

i. A minimum capital investment either through equity or debt, such as $1,000,000, unless located in a "favored geographic area" (as currently defined in the Capital Credits Act); locating in an FGA would only require a lesser investment, such as $500,000.

ii. There is an expansion, modernization, replacement and/or refurbishment of an existing Alabama facility or consolidation in Alabama of two or more Alabama facilities.

iii. The business is a statutorily-specified industry (e.g., manufacturing) although the Alabama Development Office ("ADO") would be authorized to approve any project deemed to be in the best interest of the State.

iv. There is an immediate threat of a material employment reduction at the existing Alabama facility.

v. Without this qualifying capital investment, the company would face the substantial possibility of closing its Alabama facility within the near term.

vi. The applicant has been in business in Alabama for a substantial period of time.

b. The application must be approved by the local development contact and then the ADO, upon a showing by the taxpayer that it has met the statutory prerequisites.

c. The applicant must choose between the EIRC and the current TIRA, Capital Credits Act, and Enterprise Zone abatements and incentives.

d. The credit would be subject to certain limitations and forfeiture provisions. The limitations would trigger a reduction or cancellation of the credit in any year the entity failed to meet all requirements. The criteria should be established in the certification process and be based on employment and viability standards.

e. Finally, each applicant would be evaluated according to the degree it will provide a return on investment (ROI) for the state. The state's "investment" could be considered as the sum of all tax credits and other state incentives provided to the applicant in any given year. The State's "return" could be expressed through multiple quantifiable criteria such as those listed above. The state would invest in qualifying applicant industries only in conjunction with an investment of debt or equity (as described above) of at least the qualifying minimum amount.

The Committee was also made aware of the plight of several capital intensive industries located in this state that are currently suffering financially from the effects of various market conditions. The Capital Credits Act and TIRA provide little or no benefit to these companies, despite their multi-billion dollar capital investments in several parts of the state, and their creation of hundreds of jobs. The Committee recommends that the long-term study commission consider the economic impact of these industries on the state and whether the proposed existing industries retention credit should be extended to those industries.

Recommendation # 10: An amendment to the Constitution of Alabama of 1901 should be proposed that puts all counties and municipalities on a level playing field with respect to their authority to grant abatements or other incentives out of their own monies or taxes.

10) Home Rule Constitutional Amendment to Create a Level Playing Field:

In light of the statutory and constitutional restrictions on granting incentives and abatements to existing industry, constitutional amendments affecting selected counties and municipalities, allowing the county and certain municipalities therein to engage in economic development, are becoming increasingly popular. Over the years, approximately 35 counties have enacted some form of constitutional amendment for economic development purposes. The amendments are not consistent with each other; for example, some grant broader powers than others, and some impose different authorization procedures. *See, e.g., Ala. Const.* amend. 725 (2002)(Covington County). Four more such amendments were enacted in the last regular legislative session, subject to a constitutional referendum for each. The Committee expects more counties and municipalities to pursue enactment of like amendments in upcoming legislative sessions.

Generally, theses amendments give the county and designated municipalities the power to: (1) purchase, construct, lease or otherwise acquire real property, plants, buildings, factories, works, facilities, machinery, and equipment of any kind; (2) lease, sell for cash or on credit, exchange, give, transfer, or convey property described in (1); (3) promote local industrial, commercial, or agricultural development and the location of new industries or businesses; (4) lend its credit or to grant public moneys and things of value to any individual, firm, association, or corporation; (5) become indebted and to issue and sell interest-bearing bonds, warrants, notes or other obligations or evidences of indebtedness, to a principal amount not exceeding 50 percent of the assessed value of taxable property therein in order to purchase, lease, construct, or acquire property described in (1); (6) create a public authority, corporation, agency, or board having such powers, managed and governed by such board or governing body and subject to such limitations as the governing body may impose; and (7) delegate all powers and authority conferred in the constitutional amendment upon the governing body to an existing public authority, corporation, agency, or board having similar powers and subject to the same limitations as the governing body. *Id.*

The Committee recommends a state-wide constitutional amendment that, upon ratification, would grant the above home rule powers and authorities to <u>all</u> counties and municipalities, so that each county and municipality has equivalent discretion to grant various local incentives or abate its own taxes—but not state taxes. The proposed amendment would require public notice before the local granting authority could take this action, followed by public input and the normal voting procedures and requirements applicable to county commissions or city councils.

Doing so would also obviate the need for the special authorities granted to so-called “Class 6” municipalities, as defined under *Alabama Code* section 11-40-12 (1975). Class 6 municipalities (according to their population in 1970) currently are: Alexander City; Athens; Auburn; Cullman; Enterprise; Fairfield; Homewood; Mountain Brook; Opelika; Ozark; Prattville; Sheffield; Sylacauga; and Talladega. *Alabama Code* sections 11-51-220 through 11-51-241 allow the governing body of these Class 6 municipalities to grant municipal property tax exemptions separately from the TIRA abatements discussed above, as well as an exemption from municipal occupational license taxes.

a) The governing body of a Class 6 municipality may grant a partial or complete exemption from "city property taxes" (i.e., all municipal property taxes for real and personal property but does not include that portion for education) for "any parcel of land or personal property located within the city for a period of not more than 15 years." *Ala. Code* § 11-51-221 (1975).

b) Second, the governing body of a Class 6 municipality and the board of education of the municipality, "may grant, with respect to any parcel of commercial property located within the municipality, for a period of not more than 15 years, a partial or complete exemption from the portion of the municipal and county ad valorem taxes allocated for municipal educational purposes which exceeds 20 mills" subject to the provision that the property taxes from the parcel of property, for municipal educational purposes, for the year preceding the first year of exemption, do not decrease under the exemption. *See Ala. Code* § 11-51-241 (1975).

c) Lastly, the city may "exempt, from occupational license fees, in whole or in part, all persons employed upon certain designated parcels of land located within the city, for a period of not more than 15 years." *Ala. Code* § 11-51-222 (1975).

In the alternative, the Committee recommends amending the statute so that it applies to all municipalities, providing more local control and the ability for local governments to assist existing industries.

Recommendation # 11. Enact a child care tax credit for companies that sponsor or construct child care facilities for their employees, based on the federal tax credit.

11) Employer Child Care Tax Credit

A number of states, including most of our Southeastern neighbors, have in recent years enacted tax credits to incentivize employers to either construct child care facilities for their employees or contract out that function to an independent service provider. The Committee understands the need for more and better child care facilities in this state, in order to enhance the ability of working parents, especially low-income families, to join or to return to the workforce. An example often given during Committee deliberations was the facility constructed by BE&K Construction Company in Birmingham for its employees' children. Another good example cited by Committee members would be the construction of a multi-employer facility within or adjacent to an industrial park.

The Committee recommends that the Governor advocate legislation that would provide a limited income tax credit for employers that either construct their own facility or participate in a joint venture with other employers, and perhaps a professional child care provider, in constructing such a facility. The Committee reviewed the statutes of several states that offer this credit and was most impressed with the Georgia and South Carolina models. *See S.C. Code Ann.* § 12-6-3440 and *Ga. Code Ann.* § 48-7-40.6. The Committee also noted, however, that Congress has recently stepped in and enacted a federal income tax credit that meets the guidelines outlined in the Georgia and South Carolina legislation. *See Internal Revenue Code* § 45F (effective for tax years beginning in 2002). Enacting a state-level credit that conforms to the new federal employer credit has the added benefit of ease of administration and federal-state law conformity, which has long been championed by tax practitioners and the business community alike. Of course, any such child care center would be subject to DHR approval and oversight.

The Committee also recommends that the enabling legislation provide increased liability protection to those employers who construct or co-sponsor the construction of such a facility, and to those who contract-out that function to third parties.

Recommendation #12: Acknowledge the sometimes hidden value of the Alabama tourism industry and encourage the long-term study commission to consider possible incentives to encourage further growth.

12) Tourism Industry Incentives

Recent news articles regarding the economic benefits of the state's tourism industry as well as data supplied by ADO surprised some Committee members as well as the technical advisers regarding the importance of the tourism industry in this state. According to an April 15, 2003 report, submitted to Mr. Lee Sentell, Director of the Alabama Bureau of Tourism and Travel, the total impact of the travel and tourism industry on Alabama's earnings was estimated at more than $2.6 billion. Travelers spent over $6.5 billion in this state, in 2002 alone, generating over $417 million in state and local tax revenues.

Over 139,000 jobs—approximately 7.4 percent of non-agricultural employment in this state—were directly or indirectly attributable to the travel and tourism industry in 2002. It was also noteworthy that seven counties accounted for over 73 percent of all travel-generated employment: Baldwin, Jefferson, Madison, Mobile, Montgomery, Shelby and Tuscaloosa. See *http://www.tourlabama.org/2002 Tourism Report*. Therefore, the Committee recommends that the long-term study commission described above consider the potentially growing economic impact of this often quiet industry and determine whether incentives of various forms or types should be offered for private companies to further develop this industry in our state.